

International Human Rights Program UofT

Feminist Foreign Policy Fail? Assessing Canada's Human Rights Obligations in Gaza

Submission to the United Nations Committee on the Elimination of Discrimination Against Women on the Occasion of the Committee's Review of Canada's 10th Report

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Women Who Choose to Live

World BEYOND War

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INTRODUCTION

Canada proudly trumpets what it calls its “feminist foreign policy,” but these boasts collapse under closer scrutiny. In reality, Canada espouses a foreign policy that inflicts grievous extraterritorial harm on women and girls. In particular, its continuing support of the Israeli Defense Forces (IDF) through arms exports and other means contributes to serious violations of women’s rights in Gaza, including (but not limited to) the right to maternal and reproductive healthcare.

The reality of a globalized world is that the impacts of a state’s actions may reverberate beyond its territorial boundaries. Accordingly, a state's international human rights obligations do not end at its borders. A complete analysis of a state’s record on women's rights must therefore be similarly transnational in scope. And a state’s performance in regulating the conduct of its multinational corporations is a key element of this analysis, as in a global capitalist economy, transnational business activity is often a leading driver of serious transborder violations of human rights.

Canada’s chronic failures to meet its human rights obligations with respect to the extraterritorial impacts of its multinational corporations are well documented and have been highlighted repeatedly by various United Nations (UN) human rights bodies for the past two decades. This very Committee expressed concern about the “negative impact of the conduct of transnational companies... registered or domiciled in the State party” in its concluding observations on Canada's last periodic review, and followed up on this question for the present review in its list of issues prior to reporting.

This submission illustrates how Canada's persistent shortcomings in this regard negatively impact women’s rights, focusing on Canada’s failure to regulate Canadian companies and other organizations that enable atrocities committed by the IDF in Gaza through arms exports and other means. Canada’s continued failure to exercise adequate oversight and control over the extraterritorial impact of these companies contributes to serious violations of women’s rights in Gaza.

In its statement of 16 February 2024, this Committee expressed grave concern over serious violations of CEDAW and other rules of international human rights law and international humanitarian law occurring in the Gaza Strip. This Committee drew particular attention to the situation of pregnant women, and called upon Israel to “provide a

special focus on women's and girls' special needs, such as sexual and reproductive health services and sanitary and hygiene products.”

Meanwhile, in a statement of 23 February 2024, a group of UN experts further warned that “any transfer of weapons or ammunition to Israel that would be used in Gaza is likely to violate international humanitarian law and must cease immediately.” Noting that “Israel has repeatedly failed to comply with international law,” they specifically called out Canada for its failure to cease military exports to Israel. Signatories of the statement included the UN Working Group on Discrimination against Women and Girls and the UN Special Rapporteur on Violence Against Women and Girls, its Causes and Consequences.

Focusing on violations of women's rights to maternal healthcare in Gaza, the authors submit that Canada is still not meeting its obligations under CEDAW with respect to military exports to Israel. Although it claims to have stopped issuing new permits for military exports to Israel, it has not cancelled existing permits that have not been utilized.

More importantly, Canada has done nothing to stem the indirect flow of military exports to Israel through third countries like the United States of America (US). The US is by far the largest supplier of arms to Israel and continues to provide weapons freely despite the IDF's ongoing atrocities. Canadian companies provide parts and components that go into many US-made military products that are known to have been used by the IDF in Gaza. In other transactions, the US government simply purchases weapons from Canada and sends them directly onwards to Israel. Meanwhile, Canada does not subject most military exports to the US to any export controls whatsoever. Thus, the flow of Canadian arms exports to Israel continues uninterrupted, as long as they are simply diverted through the US.

Partially discontinuing direct arms exports to Israel, while continuing to allow exports to Israel's primary arms supplier free of any oversight or control, does not discharge Canada's obligations under CEDAW and other international law instruments. As a group of UN experts emphasized in a statement of 20 June 2024, the obligation to cease military exports to Israel extends to “indirect transfers through intermediary countries that could ultimately be used by Israeli forces, particularly in the ongoing attacks on Gaza.” Signatories of this statement also included the UN Working Group on Discrimination against Women and Girls and the UN Special Rapporteur on Violence Against Women and Girls, its Causes and Consequences.

Aside from arms exports, the Canadian government has also continued extending material assistance to the IDF in other ways, such as subsidizing organizations that provide support to the IDF.

As such, the authors submit that Canada is in serious breach of its obligations under CEDAW, including Articles 2, 5, 10, 12, and 16, and recommend that Canada take various measures to put itself back in compliance.

BACKGROUND

Maternal Healthcare in Gaza

With the support of Canadian arms exports, the conflict in Gaza since 7 October 2023 has had a grave impact on the health of women and children, and in particular on reproductive, maternal, obstetric, and neonatal care. Since the start of the hostilities, more than 10,000 women have been killed, prompting the UN Women Special Representative in the Occupied Palestinian Territory to call the conflict “a war on women.” Women have been killed, injured, repeatedly displaced, are suffering high levels of malnutrition, and are susceptible to infectious diseases due to overcrowding, poor nutrition, dehydration, and a lack of sanitary conditions. This submission focuses on the particular harms faced by women trying to get pregnant, pregnant women, and new mothers, as well as their infants.

Even prior to the conflict, supply shortages, non-functioning equipment, and past attacks challenged the quality of maternal and neonatal care in Gaza. However, since October 7, direct attacks against pregnant women; displacement; the destruction of critical infrastructure due to repeated attacks; a lack of medical staff; difficulties in accessing hospitals and care facilities; malnutrition caused by food shortages; lack of hygiene; shortages in key supplies; and elevated levels of stress have led to violations of the rights of women. At every stage of their pregnancy journey – from trying to get pregnant, through to pregnancy, childbirth, and postpartum care – women face violence and human rights violations as a result of hostilities and direct attacks by Israeli forces.

Reproductive and Obstetric Violence Faced by All Women in Gaza

There are more than 690,000 menstruating women and adolescent girls in Gaza. Israel's siege and blockade of humanitarian aid since October 7 has made menstrual products scarce or very expensive. Clean, private toilet facilities are inaccessible to women and girls displaced and living in tents or sheltering in overcrowded schools and hospitals. Women in Gaza report using dirty cloths, adult diapers, rags, and mattress scraps to manage their periods. Inadequate menstrual hygiene management can cause reproductive and urinary infections, as well as pelvic inflammatory disease, which can lead to complications, including infertility or even death.

Destruction of Critical Maternal and Neonatal Infrastructure and Lack of Staff

None of the hospitals providing maternity and pediatric care have been spared by Israeli military action in Gaza. While the scale of damage of each hospital ranges, our research and documentation based on open-source investigations and interviews with healthcare workers in Gaza found that hospitals have been rendered inoperable by strikes, raided, subject to siege by tanks and snipers, and at the most severe have become sites of massacres.

The few facilities with functioning maternity care units are overwhelmed. By January 2024, the Emirati field hospital in Rafah was reportedly handling ten times as many cases as it was designed for. Hospitals deal with chronic bed shortages; many are overwhelmed with trauma patients with conflict-related injuries.

Reports also show staff and patients detained, interrogated, tortured, and killed. Over 500 healthcare workers have been killed since the war started, and more than 300 others are in Israeli detention. When Al Awda hospital in Jabalia was besieged in December 2023, Dr. Adnan Radi, head of the obstetrics and gynecology departments reported that three doctors, a nurse and two health workers were killed by Israeli forces. Dr. Adnan Al-Bursh, who served as the head of orthopedic surgery at Al-Shifa Hospital, after being detained and reportedly tortured in an Israeli prison. His case received significant media attention. Many other doctors and healthcare professionals have had to flee, resulting in severe shortages of staff.

Destruction of Fertility Centers and Prevention of Access to Fertility Treatment

Access to fertility healthcare is currently near impossible in Gaza due to the closure of facilities and attacks on fertility clinics by the Israeli military. For example, in early December 2023, an Israeli shell demolished the embryology lab of Al Basma clinic, along with approximately 4,000 embryos and 1,000 egg and sperm specimen contained within the lab's nitrogen tanks. These embryos accounted for most of the frozen embryos in the Gaza Strip, including those of patients being treated by other clinics.

As one international doctor, who had worked in a maternity unit in Gaza told us:

With all the fertility or assisted reproduction units made unusable; you're not just taking down human beings – you're taking down a hope of life.... I know what it took [couples seeking to have children] financially, psychologically, medically, physically, in every single way. You've taken 5,000 hopes of lives from these couples.

Harms to Pregnant Women

Since October 7, 2023, prenatal and primary care for the approximately 50,000 pregnant women in Gaza has largely stopped, and women suffer both direct and indirect effects of the conflict. As hostilities have escalated, pregnant women, including those with complicating conditions like gestational diabetes and high blood pressure, have lost contact with their primary care physicians. In March 2024, UNICEF reported that at least 5,500 pregnant women in Gaza “[did] not have access to prenatal or postnatal check-ups because of bombings and need to flee for safety.” Further, shortages in medicines as well as lack of access has meant that many pregnant women have not had access to prenatal vitamins, which reduce neural tube defects, anemia and other negative effects. Pregnant women who are forced to travel through unsafe routes risk delaying their access to care and increasing the likelihood of developing complications. One pregnant woman rode a donkey-pulled cart to Nasser Hospital alone.

Pregnant women also fear being targets themselves. In May, staff at Al Awda reported that Israeli snipers again targeted two women trying to reach the maternity ward, killing one of them. Israeli forces have also targeted maternity wards directly. On 11 December 2023 the Kamal Adwan Hospital director in Beit Lahia reported that Israeli tanks shelled the maternity ward, killing two women and leaving two others so badly wounded that their legs required amputation.

Malnutrition and a lack of access to food has also had a profound impact on pregnant women. The WHO found that in February 2024, 95 percent of pregnant and breastfeeding women faced “severe food poverty.” These conditions have only been exacerbated since then. Accounts of maternal malnutrition are common in our open-source survey of all maternity care facilities in Gaza, as are reports of maternal dehydration and anemia. Further, doctors we interviewed reported finding that few pregnant women had gained weight during their pregnancy. Malnutrition in pregnant women leads to the delayed healing of birth-related wounds, as well as the increased risk of hemorrhage during birth. Poor maternal nutrition prior to and during pregnancy is also strongly linked with increased risk of maternal anemia, mortality, and adverse birth outcomes such as low birth weight and preterm birth.

Harms to Women Giving Birth

In Gaza, approximately 180 women give birth every day. Yet, since the conflict they face significant challenges, including high levels of miscarriages and stillbirth, premature births, complications from childbirth, a lack of access to pain medications, and at times a lack of access to healthcare providers and hospitals or clinics in which to give birth.

The risk of miscarriage or stillbirth has increased for pregnant women in Gaza since October 7, 2023. Medical staff at six hospitals researched by our team reported unusually high numbers of miscarriages and stillbirths since the conflict. In January 2024, humanitarian organization CARE reported that women in Gaza had experienced “a 300% increase in miscarriage due to the lack of neonatal and maternal health care in the region” and in April, the UNFPA reported an increase in still births, defined as a fetus that dies after 28 weeks of pregnancy, but before or during birth. Malnutrition, dehydration and anemia are among the reasons medical staff give for the increase in miscarriages. Other women have miscarried after being injured by Israeli air strikes or from unintentional injuries while fleeing airstrikes, as well as after exposure to white phosphorus deployed in Israeli attacks. Health workers also cite fear and stress due to Israel’s bombing campaign and the exhaustion caused by displacement as factors increasing the rate of miscarriage.

Additionally, health workers have observed an increase in premature births and excessive bleeding during pregnancies. From October 7, 2023, to November 2023, doctors at Nasser Hospital reported delivering 800 babies – twice as many as the 400 a month pre-conflict average – many of whom were born one to two months prematurely. Women also give birth prematurely at Nasser Hospital via emergency caesarian sections (C-sections) after sustaining conflict-related injuries. In one case, a pregnant woman was pulled from rubble after an airstrike and taken to Nasser Hospital to undergo a C-section that was performed without electricity, water or antibiotics; doctors operated on her using the light of cellphones.

The lack of medical supplies due to the siege and blockade – including extremely limited supply of anesthetics allowed into Gaza – has also forced women to frequently undergo c-sections with little or no anesthesia. Women undergoing vaginal births have also been deprived of pain medication. In May, UN experts decried the fact that “over 183 women per day are giving birth without pain relief.”

Further, whether because they are turned away from over-crowded hospitals, or because they are unable to reach them, some women are forced to give birth at home, in shelters, or in public bathroom facilities – where there is on average one bathroom per 700 people.

Impact on Postpartum Care and on Breastfeeding Women

Since hostilities broke out after October 7, postpartum care for women in Gaza is scarce. Due to overcrowding and lack of available hospital beds, new mothers are forced to leave hospitals soon after giving birth, exposing them to poor sanitary and health conditions, as well as the threat of attack or further displacement.

As early as November 2023, healthcare workers noted the loss of postnatal follow-up care for women, even those suffering from pregnancy-related hypertension and gestational diabetes, and a loss of postnatal care for infants, including vaccination. The disruption of immunization programs poses a particularly grave risk as traces of the polio virus have been discovered in Gaza’s wastewater, prompting the WHO to warn of a possible outbreak. Since then, three children have presented with suspected polio, with one confirmed case in a 10-month old baby.

When women leave the hospital with their newborns, they face a range of threats to their well-being. They often return to the insecurity of life in shelters and tents, where unsanitary conditions, lack of food and water, and constant stress put both mother and child at risk. Some report being repeatedly displaced within days of giving birth, and are vulnerable to air strikes and other attacks by Israeli forces. They have little opportunity for rest, and are often deprived of the protective support network of their extended family. The struggle of new mothers to secure enough food and clean water to meet their own nutritional needs jeopardizes their ability to produce adequate breast milk for their babies. Formula and other essentials are scarce and often prohibitively expensive when available, and require a clean source of drinking water to prepare.

The impact can be catastrophic. In January 2024, a woman was discharged from As Sahaba Hospital with her newborn soon after giving birth although the infant was born underweight and had a chest infection; the doctors said the nursery was needed for sicker kids. The mother had difficulty breastfeeding and ultimately was unable to do so; the father struggled to find formula, which had become extremely expensive. The infant died 47 days later, seriously ill and acutely malnourished.

For infants admitted to hospital for longer stays, active conflict can separate families or lead to their death in hospital. In November, when Al Nasser Pediatric Hospital was forced to evacuate as Israeli forces surrounded it, the staff had to leave behind four premature babies in the intensive care unit reliant on respirators. Despite Israeli officials' assurances, the infants were never evacuated, and several weeks later were discovered dead and decomposing in the incubators where they were left. Most recently, four babies in European Hospital's neonatal intensive units were taken off life-saving support to be moved following Israeli forces' 1 July 2024 evacuation orders.

Canadian Arms Exports to Israel

The export of arms from Canada is governed by a permit-based regime. Generally, Canadian exporters are required to apply for and obtain a permit from the government to export arms.

In the months following 7 October 2023, as Israeli atrocities in Gaza escalated dramatically, so too did Canada's military support to Israel through arms exports. In the three months between October and December 2023 alone, the Canadian government authorized new permits totaling at least C\$28.5 million (US\$20.8 million) of military exports to Israel. In contrast, the total value of such permits issued in all of the previous year amounted to just over C\$21 million (US\$15.3 million).

Following sustained public outcry and a non-binding motion in Parliament, the Canadian government agreed in March 2024 to stop issuing new permits for arms exports to Israel. However, the government did not cancel or suspend existing permits that had already been issued but not utilized. According to Canadian government data, as of July 2024 there remain active permits to export a total of approximately C\$94.5 million (US\$69 million) of arms to Israel.

Further, the government's statement – which it can reverse at any time – does not apply to indirect arms transfers through third countries such as the US.

The US is by far the biggest global supplier of arms to Israel, accounting for approximately 70% of Israel's total arms imports. The US and Canada have a close military and trade relationship and Canadian suppliers are firmly integrated into the supply chain of the US military industry.

Pursuant to diplomatic agreements between the two close allies, Canada has implemented special arrangements that exempt most military exports to the US from requiring individual permits as they otherwise would. Thus, the government's cessation of new permits for direct arms exports to Israel does not affect indirect arms exports to Israel through the US, which mostly do not require an individual permit in the first place.

Although there is scant publicly available information on Canadian arms exports to Israel routed through the US, it is likely that they are far more significant than direct exports. For instance, in just one transaction announced August 13, 2024, the Secretary of State approved the sale to Israel of over 50,000 120mm high-explosive mortar cartridges worth US\$61.1 million, to be purchased from a Canadian manufacturer. The Israeli military has deployed 120 mm mortars during their operations in Gaza since 2009 and is using them in the current conflict.

Further, there is evidence that Canadian-made parts and components have gone into some of the key US-supplied military equipment used by Israel to commit atrocities in Gaza. For instance:

The F-35 Joint Strike Fighter is a multirole strike fighter aircraft that Israeli forces have used in the ongoing bombardment of Gaza. The aircraft is assembled with components from manufacturers in more than a dozen countries, including Canada. Since the late 1990s, at least 110 Canadian-based suppliers have been awarded contracts for the F-35 program valued in excess of C\$3.8-billion (US\$2.8 billion). Canadian suppliers have manufactured segments of the F-35's airframe and a host of internal components. According to publicly available U.S. Department of Defense federal procurement records, a number of active F-35 production contracts include subawards to Canadian aerospace manufacturers or Canadian-based subsidiaries. An April 2018 study commissioned by Lockheed Martin stated that "there is \$2.3 million USD [approximately C\$3.1-million] worth of Canadian components on every F-35 jet manufactured." In January 2023, the Canadian Minister of National Defense stated that "approximately three thousand F-35s are forecast to be produced for partners and allies across the world – and every one of these jets will also include Canadian components." In June 2024, Israel announced an order for 25 more F-35 fighter jets in a deal valued at US\$3-billion.

Canadian companies also provide aerospace parts for Boeing's F-15 fighter, which the Israeli Air Force uses in its air assault on Gaza. The F-15 is a tactical fighter aircraft used in air-to-air combat and to carry out strikes on ground targets. Canadian companies provide various components for its manufacture. The Biden administration has approved the sale of 50 F-15s to Israel for more than \$18 billion USD.

Boeing also manufactures the AH-64 Apache attack helicopter, which the Israeli Air Force has used in its air assault on Gaza. According to the Boeing website, "Canadian partners provide aerospace parts" for the AH-64 Apache. Israel has requested 12 new AH-64 Apaches from the US, a request that has reportedly been "advanced and given priority."

Canadian Charitable Donations & Support to the Israeli Defense Force

In recent years, there have been widespread complaints about Canadian charities – who benefit from various tax subsidies in Canada – providing material support to the IDF, thereby contributing to human rights violations in Gaza, as well as violating domestic tax regulations.

Canada's tax subsidy scheme for charitable organizations is one of the most generous in the world. Individuals who donate money to charities receive a deductible federal tax credit of up to 33% (on top of any provincial credits). This means that the federal government effectively subsidizes up to 33% of the value of donations received by Canadian charitable organizations.

In turn, many Canadian charities are known to be using this money to support the IDF. For example:

Mizrachi Canada has reportedly donated money to support the IDF's Duvdevan Unit. The Duvdevan Unit is known to engage in extrajudicial assassinations of Palestinians. Mizrachi Canada has also made donations to "Im Tirtzu", a far-right Israeli group openly involved in blockades of vital aid trucks destined for Gaza.

The Jewish National Fund of Canada (JNF) has donated money to build infrastructure for the IDF, such as a 900-metre "security road" that "will improve access to the area for security forces."

The HESEG Foundation provides scholarships to non-Israeli IDF soldiers, which allows them to study in Israel after their service.

These contributions violate Canada's domestic regulations governing the activities of charities. These state that a charity 1) cannot contradict an officially declared and implemented policy by the Canadian government, such as Canada's official policy not to recognize permanent Israeli control over the occupied Palestinian territories; 2) cannot operate with racist purposes that offend the Canadian Charter of Rights and Freedoms, which would necessarily include the racial apartheid system in Palestine and continued human rights violations of Palestinians; and 3) cannot support the armed forces of another country.

Yet Canada has continued to subsidize these organizations, despite knowing for years that they provide material support to the IDF. For example, the Canada Revenue Agency (CRA) has received five unique complaints about

Mizrachi Canada in three years. However, the CRA failed to revoke Mizrachi Canada's charitable status, despite the clear violation of its own rules.

At time of drafting, the CRA appeared to have begun taking modest steps to rectify the situation. On August 10, 2024, the CRA formally revoked the charitable status of JNF as well as the Ne'eman Foundation of Canada, yet another charity that has been accused of contributing to human rights abuses by the IDF and aligned groups. While this is a laudable first step, more needs to be done to sanction the many other organizations brazenly supporting the IDF.

VIOLATIONS OF CEDAW

With respect to occupied territory, both UN and regional treaty bodies have taken the position that the occupying state is obliged to observe its human rights obligations extraterritorially with respect to persons or territory over which it has effective control. The Committee has applied this principle to obligations under the Convention and, in the case of the Occupied Palestinian Territories, has found that Israel has overall responsibility for reporting and ensuring the observance of the Convention in those territories.

That said, third-party states such as Canada have extraterritorial human rights obligations under the Convention with respect to the situation in Gaza as well. The Committee has increasingly adopted an expansive approach to the Convention's application to State parties' actions both within and outside their territory, and in General Recommendation No. 28, at paragraph 12, indicated that State parties "are responsible for all their actions affecting human rights, regardless of whether the affected persons are in their territories." The Committee further stated that the obligations of State parties to establish effective legal protection of the rights of women "also extend to acts of national [private] corporations extraterritorially."

Thus, in order to comply with its obligations under the Convention, Canada must regulate corporations under its jurisdiction that are contributing to the human rights violations of women in Gaza, and failure to do so makes Canada complicit in the CEDAW violations discussed in this submission.

Violations of Article 12: Right to Health

The state of maternal healthcare in Gaza as documented above is a clear violation of Palestinian women's right to health under Article 12 of the Convention. As the United Nations Office of the High Commissioner for Human Rights has warned, bombardment of hospitals places "an estimated 50,000 pregnant Palestinian women and 20,000 new babies at unimaginable risk."

Article 12 of the Convention affirms that access to health care, including reproductive health, is a basic right. It requires that State parties comply in eliminating discrimination against women and their access to health-care services throughout the entirety of their family planning journey, including pregnancy and post-natal care. State parties must take all appropriate measures to respect, protect, and fulfill women's fundamental human right to healthcare services.

The importance of addressing and reducing maternal mortality and morbidity pursuant to Article 12 was underscored by this Committee in its *Alyne da Silva Pimentel v Brazil* decision, whereby the Committee found that the state's failure to ensure women's rights to safe motherhood, provide access to adequate emergency obstetric care, and meet the specific and distinctive health needs of women – particularly historically marginalized groups of women – violated the Convention. Notably, through this decision, the Committee also legitimized the World Health Organization (WHO) standards and United Nations Population Fund (UNFPA) standards for maternal health and established them as essential indicators in determining whether women's right to health care was being met under Article 12 of the Convention.

Under WHO standards, elimination of discrimination in healthcare includes ensuring physical access to healthcare facilities through reliable transportation and integrated systems, and the presence of necessary protocols, medications, and equipment – including safe water and sanitation – at hospitals. And the UNFPA standards state that states must not "interfere" with a woman's right to health by making it harder to access healthcare, and must protect citizens against third parties who can interfere with the enjoyment of the right to health.

In conflict zones like the Gaza Strip, access to health care facilities and essential medical resources are some of the chief concerns relating to Article 12, as women are unable to access clinics, hospitals, and healthcare providers during and following their pregnancy. In Gaza, the attacks on hospitals, healthcare workers, and infrastructure have made access to health care of this nature near impossible.

Access to reliable transportation to and from healthcare facilities, through ambulances for example, is a critical factor when assessing the application of Article 12. Transportation delays due to damaged transportation infrastructure, insufficient personnel, electricity, water, or medical supplies can significantly increase maternal mortality.

Accessibility to appropriate medication and equipment is also a key consideration. Hospitals must be able to provide newborn care alongside delivery and postpartum care and be equipped with necessary medications and equipment, along with potable water and adequate sanitation. The damage to facilities, lack of humanitarian aid flow, and increasingly unstable electricity have severely compromised the ability of health facilities in the Gaza Strip to deliver these necessities.

Other Violations of CEDAW

The atrocities detailed in this submission, including the specific, targeted military operations against hospitals and maternity and children's wards in Gaza and the systematic deprivation of humanitarian aid, have adversely and disproportionately impacted women with respect to numerous other Convention rights, many of which are interconnected with Article 12's right to health, such as Articles 5, 10, 11, 14, and 16. The Independent Commission on the Occupied Palestinian Territory, including East Jerusalem, and Israel has found that sieges as well as destruction caused by the IDF's military operations resulted in violations of the right to "family life, adequate food, housing, education, health, social security, and water" which disproportionately affected "children and persons in vulnerable situations." The report also found gender specific harms that violated "rights to non-discrimination in the CEDAW" under Article 2.

Additionally, although outside the scope of this submission, there is substantial evidence of generalized violence against women and sexual violence by Israeli forces in Gaza, violating Articles 2, 5, 11, 12 and 16 of the Convention, which require states to act to protect women against violence of any kind in various areas of social life. In its February 2024 statement, this Committee expressed concern at the disproportionate number of women and children among casualties in Gaza, and the UN Women Special Representative in the Occupied Palestinian Territory has called Israel's deadly campaign against civilians in Gaza a "war on women." This echoes the concerns that other UN experts have expressed about violence against women in Gaza. For instance, a group of seven UN Special Rapporteurs have noted the "continued reports of sexual assault and violence against women and girls, including against those detained by Israeli occupation forces."

Although such violations of the Convention are being directly committed by Israeli forces in Gaza, Canada bears responsibility for said violations where its acts or omissions contribute to the human rights harms. Thus, to the extent that Canada's failure to exercise adequate oversight and control over the extraterritorial impact of its companies contributes to violations of women's rights in Gaza, Canada remains complicit in and responsible for these other CEDAW violations as well.

Note on International Humanitarian Law

Obligations under the Convention do not cease in periods of armed conflict. Rather, the Committee has recognized that such situations have a deep impact and broad consequences on the equal enjoyment and exercise of fundamental rights by women. Thus, states should "adopt strategies and take measures addressed to the particular needs of women in times of armed conflict." This is especially important considering the high levels of maternal mortalities and other preventable deaths which occur in conflict.

During conflict, international human rights law remains in effect alongside international humanitarian law (IHL). However, where there is overlap, IHL may become the *lex specialis* used for interpretation of certain provisions. In Gaza, Israel has committed grave violations of IHL, especially with respect to women, expectant mothers, and protection of medical institutions, transports and personnel.

IHL affords women the same protection as men. However, differentiated treatment is afforded in particular instances, especially with respect to certain real differences between women and men. In particular, pregnant women are provided with additional protection under the Fourth Geneva Convention, Additional Protocol I, and customary IHL. In particular, “these provisions require special care for pregnant women and mothers of young children with regard to the provision of food, clothing, medical assistance, evacuation and transportation.” Thus, repeated violations against reproductive, obstetric, and neonatal healthcare violate the special protections afforded to pregnant women and mothers with young children in times of conflict.

Under IHL, medical personnel, units, and transports are entitled to special protection and “must be respected and protected in all circumstances.” Additionally, “directing an attack against a zone established to shelter the wounded, the sick and civilians from the effects of hostilities is prohibited.” In very limited circumstances – where medical personnel, units, or transports are engaged in “acts harmful to the enemy” – the special protection may be lost, however the opposite party to the conflict must first issue advance warnings that the conduct at issue is resulting in acts harmful to the enemy with a clearly defined and reasonable time for the warning to be heeded. In this context, there is no evidence to suggest that such special protection has been lost; rather, the evidence strongly indicates that Israel is systematically violating IHL through the targeting of hospitals, ambulances, and medical staff.

CANADA’S FAILURE TO COMPLY WITH CEDAW

As noted above, Canada’s obligations under the Convention apply extraterritorially. This Committee has noted that State parties to the Convention “are responsible for all their actions affecting human rights, regardless of whether the affected persons are in their territory.” The “obligation to respect” requires Canada to refrain from conduct “that indirectly or directly results in the denial of the equal enjoyment by women of their civil, political, economic, social and cultural rights.” Thus, Canada must refrain from conduct that would have foreseeable external effects - such as human rights harms to the women of Gaza - even if the actions of other states or non-State actors contribute to those consequences.

This Committee has also observed that the “obligation to protect” also requires Canada to protect women from discrimination by non-state actors, including corporations. This obligation stems in part from Article 2(e) of the Convention, which requires the state to take measures to eliminate discrimination by non-State actors. This obligation of “due diligence” holds State parties responsible should they fail to take all appropriate measures to prevent, investigate, prosecute, punish, and provide reparations for acts or omissions by non-State actors that result in the violation of rights under the Convention.

Other UN treaty bodies have also recognized that international human rights law obliges states to regulate corporations within their jurisdiction. As the Human Rights Committee has stated (in a case involving Canada), “there are situations where a State party has an obligation to ensure that rights under the Covenant are not impaired by extraterritorial activities conducted by enterprises under its jurisdiction.” With respect to maternal health, states must regulate “private actors [...] over which they exercise control” and who have the ability to “affect the delivery of sexual and reproductive health services abroad”. Additionally, states should assess their trade policies to ensure they align with and support the advancement of women’s sexual and reproductive health rights.

As evidenced in this submission, Canada is not adhering to these obligations. Canada is currently failing to prevent the export of arms and technology to Israel from Canadian companies - whether by direct or indirect means - which have a high risk of being used to violate the rights of women in Palestine. Canada is also neglecting to regulate and monitor Canadian charitable organizations that provide material support to the IDF, thereby funding serious violations of Palestinian women’s rights under the Convention.

Canada’s poor record on regulating Canadian companies with respect to the extraterritorial human rights impacts of their operations has been a chronic problem for many years. Several UN treaty bodies have now raised concerns about the negative impact of the conduct of Canadian transnational companies, and called out Canada’s inaction with respect to the same. These include this Committee in its Concluding Observations on Canada’s eighth and ninth periodic reports, as well as the Committee on the Elimination of Racial Discrimination, and the Committee on the Rights of the Child.

A multitude of UN mandate holders have also called out Canada's persistent shortcomings in this respect. As the Special Rapporteur on the rights of Indigenous Peoples has noted:

"The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate, and the State has extraterritorial obligations to take steps to prevent and redress infringements of these rights committed abroad by business entities over which it exercises control."

States' obligation of due diligence extends to violations by non-State actors of all rights guaranteed by the Convention, including sexual and reproductive health. For example, in the past, the Committee has found an obligation to regulate companies whose operations negatively affected pregnant women by increasing rates of female and child mortality. The continuing violations of women's right to health in Gaza (particularly within the broader context of violence against women) demands state intervention from Canada, especially given that private actors under Canada's jurisdiction are contributing to such rights violations.

This necessarily includes a responsibility upon Canada to take appropriate measures to ensure that arms exports from Canada are not being used to violate women's rights in other countries. In fact, in its periodic reviews of other states (such as France, Italy, and Switzerland), the Committee expressed concerns that arms trade to conflict zones and inadequate monitoring of arms-producing corporations, in violation of the states' obligations under the Arms Trade Treaty, would also negatively impact the rights of women under the Convention and recommended that the gender dimensions of arms exports be considered in strategic dialogues, policy making and operational activities. This is particularly important with respect to the conflict in Gaza, where the UN Human Rights Council and independent UN experts have already called on states to immediately cease the transfer of arms to Israel, whether directly or indirectly.

RECOMMENDATIONS

The authors commend Canada for the limited steps already taken to stop some of the flow of arms exports to Israel, and to revoke the charitable status of some of the organizations that have been providing material support to the IDF, in recognition of the serious risk of international humanitarian law and human rights violations.

However, given the gravity of the situation, additional measures are urgently needed. Thus, the authors respectfully request that the Committee issue the following recommendations to Canada:

Ensure compliance with its obligations under the Convention and other international human rights law - including through the comprehensive implementation of the Arms Trade Treaty - and its own domestic laws by:

Continuing the current suspension of new permits for arms exports directly to Israel;

Canceling or suspending active existing permits to export arms to Israel that have been issued but not yet utilized;

Immediately ceasing military exports to the US, the largest global supplier of arms to Israel, or, at the very least, implementing export controls for military exports to the US and withholding authorization for military exports to the US without adequate diplomatic or other assurances that they will not be further exported to Israel;

Conducting a review of laws, regulations, and policies for Canadian arms exports to prohibit the transfer of arms to all other places where they may be used to commit human rights violations against women.

Engage in international cooperation to realize the aims of the Convention, including provision of aid to Gaza and acceptance of refugees from Gaza.

Engage in international cooperation to rebuild the health care system and infrastructure in Gaza, ensuring that the provision of health care to women meets the international maternal health standards set by WHO, UNFPA, and the International Federation of Gynecology and Obstetrics.

Revoke the charitable status of organizations that provide material support to the IDF and other foreign military forces committing or at substantial risk of committing serious violations of international humanitarian law and human rights.

Further, in light of the grave and systemic violations of the Convention described above, the authors also respectfully request that the Committee initiate an inquiry into the matter pursuant to Article 8(2) of the Optional Protocol.

ANNEX

Affidavit of Judy Korecky, sworn 20 August 2024, enclosed in PDF version.